THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :22646 of 2007

DATED:25-10-2007

BETWEEN:

Dhanavath Panthulu Naik.

..... PETITIONER

AND

The Govt. of A.P.,
Rep., by its Secretary,
Panchayat Raj Department,
Secretariat,
Hyderabad & 3 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Panchayat Raj & Rural Development appearing for the respondents.

2. Petitioner questions the order of the 3rd respondent-District Panchayat Officer, Nalgonda District, dated 05-09-2007, withdrawing the cheque powers and entrusting the cheque powers alongwith the petitioner to be counter-signed by the Extension Officer. Thereafter, an enquiry has been conducted by the 3rd respondent and final orders have been passed in proceedings No.1028-2007-B1 (Pan)-2, dated 22-10-2007, under Section 265(1) of the A.P.Panchayat Raj Act, 1994 (for brevity, 'the Act').

4. A perusal of the said order goes to show that the 3rd respondent removed the Sarpanch and ordered for recovery of a sum of Rs.4,42,782/- within forty five days. It is stated that the 3rd respondent made a further order to hand over the charge to the Upa-sarpanch. Those orders, dated 22-10-2007, have not been questioned. I am of the *prima facie* opinion that the District Panchayat Officer has no power or authority to remove the Sarpanch while exercising the powers under Section 265(1) of the Act. Under Section 265(1) of the Act the Commissioner alone is entitled to pass an order and if there is any delegation of powers, of course, it is open for the delegated authority to exercise such

powers, but I do not see any delegation of such powers. Further power to remove the Sarpanch is only under Section 249(6) of the Act by the District Collector and in the instant case there are no such orders to remove the Sarpanch and therefore, the question of entrusting the charge to the Upa-Sarpanch who is not a tribal does not arise. Petitioner failed to question the said orders.

I am not inclined to entertain this Writ Petition.

4. Writ Petition is dismissed with a liberty to question the said orders, dated 22-10-2007, in an appropriate forum. No order as to costs.

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V.ESWARAIAH,J

25th October, 2007.
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